IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

Crl.MC.No. 218 of 2005(B)

CC.449/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, ATTINGAL

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PETITIONER(S): 4TH ACCUSED

M.MUHAMMED MUSTHAFA,
S/O.MYTHEEN KUNJU, JOLLY DALE, KALLOOR,
MELTHONNAKKAL VILLAGE, MANJAMALA P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAJAGOPALAN NAIR
SRI.G.BIJU

RESPONDENT(S): STATE & DEFACTO-COMPLAINANT

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1. STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. SHEENA BEGUM, D/O.AYSHA BEEVI,
KARIM MANZIL, NEAR CSI CHURCH,
NANNATTUKAVU, VEMBAYAM, THIRUVANANTHAPURAM.

R2 BY PUBLIC PROSECUTOR SRI.K.G.BHASKAR
SRI.R.S.KALKURA FOR R2

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 11/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.HEMA,J.

Crl.M.C.No.218 OF 2005

Dated this the 11th day of October, 2007

O R D E R

This petition is filed to quash all further proceedings against the petitioner initiated on the basis of a complaint, Annexure-I. The charge sheet is Annexure-II, as per which, the petitioner is charge sheeted for offences under Sections 498A and 34 IPC.

2. According to learned counsel for petitioner, the complaint is filed only to tarnish the image of the petitioner in public and thereby coerce accused 1 to 3 to concede to the demands made by the defacto complainant and her father. The defacto complainant is the second respondent.

3. It is also contended that the only allegation in the first information statement, Annexute-I is that first accused harassed defacto complainant, at the instance of accused 2 and 3. Such allegation will not amount to cruelty, under Section 498A IPC, it is contended. There must be wilful conduct of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman etc. as per the language under Section 498A, it is argued.

4. On hearing and on going through the complaint, Annexure-I it can be seen that there are specific allegations of harassment stating that the dowry given is insufficient and also that ornaments given to the defacto complainant were insufficient etc. and that accused used to physically and mentally harass defacto complainant. It is also alleged that petitioner's father used to assault defacto complainant demanding dowry and also abuse her. There is also specific allegation in the complaint that she was fisted on the chest, back and shoulders and she was sent to her house etc.

5. It is also alleged that her husband and mother had kept her locked up in a room and left her there even without giving any food. Several other allegations were also made in the complaint. On going through the complaint, I am satisfied that this is not a fit case to quash the complaint on the ground that no offence is prima facie made out under Section 498A IPC.

This petition is dismissed.

K.HEMA, JUDGE

vgs.